



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB0076

Introduced 1/12/2011, by Rep. Naomi D. Jakobsson

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/8.7

820 ILCS 305/19

from Ch. 48, par. 138.19

Amends the Workers' Compensation Act. Provides that claimants shall be notified of the specific reason for a denial to pay medical expenses. Provides that if the specific reason is not given, the claim should not be given the rebuttable presumption that the employer shall not be responsible for payment of additional compensation if that denial or refusal to authorize complies with a utilization review program. Increases daily and total additional compensation allowed when an employer or his or her insurance carrier, without good and just cause, fail, neglect, refuse, or unreasonably delay the payment of medical or compensation benefits due. Effective January 1, 2012.

LRB097 03120 AEK 43155 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 8.7 and 19 as follows:

6 (820 ILCS 305/8.7)

7 Sec. 8.7. Utilization review programs.

8 (a) As used in this Section:

9 "Utilization review" means the evaluation of proposed or  
10 provided health care services to determine the appropriateness  
11 of both the level of health care services medically necessary  
12 and the quality of health care services provided to a patient,  
13 including evaluation of their efficiency, efficacy, and  
14 appropriateness of treatment, hospitalization, or office  
15 visits based on medically accepted standards. The evaluation  
16 must be accomplished by means of a system that identifies the  
17 utilization of health care services based on standards of care  
18 or nationally recognized peer review guidelines as well as  
19 nationally recognized evidence based upon standards as  
20 provided in this Act. Utilization techniques may include  
21 prospective review, second opinions, concurrent review,  
22 discharge planning, peer review, independent medical  
23 examinations, and retrospective review (for purposes of this

1 sentence, retrospective review shall be applicable to services  
2 rendered on or after July 20, 2005). Nothing in this Section  
3 applies to prospective review of necessary first aid or  
4 emergency treatment.

5 (b) No person may conduct a utilization review program for  
6 workers' compensation services in this State unless once every  
7 2 years the person registers the utilization review program  
8 with the Department of Financial and Professional Regulation  
9 and certifies compliance with the Workers' Compensation  
10 Utilization Management standards or Health Utilization  
11 Management Standards of URAC sufficient to achieve URAC  
12 accreditation or submits evidence of accreditation by URAC for  
13 its Workers' Compensation Utilization Management Standards or  
14 Health Utilization Management Standards. Nothing in this Act  
15 shall be construed to require an employer or insurer or its  
16 subcontractors to become URAC accredited.

17 (c) In addition, the Secretary of Financial and  
18 Professional Regulation may certify alternative utilization  
19 review standards of national accreditation organizations or  
20 entities in order for plans to comply with this Section. Any  
21 alternative utilization review standards shall meet or exceed  
22 those standards required under subsection (b).

23 (d) This registration shall include submission of all of  
24 the following information regarding utilization review program  
25 activities:

26 (1) The name, address, and telephone number of the

1 utilization review programs.

2 (2) The organization and governing structure of the  
3 utilization review programs.

4 (3) The number of lives for which utilization review is  
5 conducted by each utilization review program.

6 (4) Hours of operation of each utilization review  
7 program.

8 (5) Description of the grievance process for each  
9 utilization review program.

10 (6) Number of covered lives for which utilization  
11 review was conducted for the previous calendar year for  
12 each utilization review program.

13 (7) Written policies and procedures for protecting  
14 confidential information according to applicable State and  
15 federal laws for each utilization review program.

16 (e) A utilization review program shall have written  
17 procedures to ensure that patient-specific information  
18 obtained during the process of utilization review will be:

19 (1) kept confidential in accordance with applicable  
20 State and federal laws; and

21 (2) shared only with the employee, the employee's  
22 designee, and the employee's health care provider, and  
23 those who are authorized by law to receive the information.  
24 Summary data shall not be considered confidential if it  
25 does not provide information to allow identification of  
26 individual patients or health care providers.

1           Only a health care professional may make determinations  
2 regarding the medical necessity of health care services during  
3 the course of utilization review.

4           When making retrospective reviews, utilization review  
5 programs shall base reviews solely on the medical information  
6 available to the attending physician or ordering provider at  
7 the time the health care services were provided.

8           (f) If the Department of Financial and Professional  
9 Regulation finds that a utilization review program is not in  
10 compliance with this Section, the Department shall issue a  
11 corrective action plan and allow a reasonable amount of time  
12 for compliance with the plan. If the utilization review program  
13 does not come into compliance, the Department may issue a cease  
14 and desist order. Before issuing a cease and desist order under  
15 this Section, the Department shall provide the utilization  
16 review program with a written notice of the reasons for the  
17 order and allow a reasonable amount of time to supply  
18 additional information demonstrating compliance with the  
19 requirements of this Section and to request a hearing. The  
20 hearing notice shall be sent by certified mail, return receipt  
21 requested, and the hearing shall be conducted in accordance  
22 with the Illinois Administrative Procedure Act.

23           (g) A utilization review program subject to a corrective  
24 action may continue to conduct business until a final decision  
25 has been issued by the Department.

26           (h) The Secretary of Financial and Professional Regulation

1 may by rule establish a registration fee for each person  
2 conducting a utilization review program.

3 (i) A utilization review will be considered by the  
4 Commission, along with all other evidence and in the same  
5 manner as all other evidence, in the determination of the  
6 reasonableness and necessity of the medical bills or treatment.  
7 Nothing in this Section shall be construed to diminish the  
8 rights of employees to reasonable and necessary medical  
9 treatment or employee choice of health care provider under  
10 Section 8(a) or the rights of employers to medical examinations  
11 under Section 12.

12 (j) When an employer denies payment of or refuses to  
13 authorize payment of first aid, medical, surgical, or hospital  
14 services under Section 8(a) of this Act, if that denial or  
15 refusal to authorize complies with a utilization review program  
16 registered under this Section and complies with all other  
17 requirements of this Section, then there shall be a rebuttable  
18 presumption that the employer shall not be responsible for  
19 payment of additional compensation pursuant to Section 19(k) of  
20 this Act and if that denial or refusal to authorize does not  
21 comply with a utilization review program registered under this  
22 Section and does not comply with all other requirements of this  
23 Section, then that will be considered by the Commission, along  
24 with all other evidence and in the same manner as all other  
25 evidence, in the determination of whether the employer may be  
26 responsible for the payment of additional compensation

1 pursuant to Section 19(k) of this Act.

2 (k) When an employer denies payment of or refuses to  
3 authorize payment of first aid, medical, surgical, or hospital  
4 services under Section 8(a) of this Act, the employer shall  
5 notify the claimant of the denial in writing and such  
6 notification shall include the specific reason for the denial.  
7 Any claim for which the employer has not communicated a  
8 specific reason for the denial shall not be considered denied  
9 under this Section.

10 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

11 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

12 Sec. 19. Any disputed questions of law or fact shall be  
13 determined as herein provided.

14 (a) It shall be the duty of the Commission upon  
15 notification that the parties have failed to reach an  
16 agreement, to designate an Arbitrator.

17 1. Whenever any claimant misconceives his remedy and  
18 files an application for adjustment of claim under this Act  
19 and it is subsequently discovered, at any time before final  
20 disposition of such cause, that the claim for disability or  
21 death which was the basis for such application should  
22 properly have been made under the Workers' Occupational  
23 Diseases Act, then the provisions of Section 19, paragraph  
24 (a-1) of the Workers' Occupational Diseases Act having  
25 reference to such application shall apply.

1           2. Whenever any claimant misconceives his remedy and  
2 files an application for adjustment of claim under the  
3 Workers' Occupational Diseases Act and it is subsequently  
4 discovered, at any time before final disposition of such  
5 cause that the claim for injury or death which was the  
6 basis for such application should properly have been made  
7 under this Act, then the application so filed under the  
8 Workers' Occupational Diseases Act may be amended in form,  
9 substance or both to assert claim for such disability or  
10 death under this Act and it shall be deemed to have been so  
11 filed as amended on the date of the original filing  
12 thereof, and such compensation may be awarded as is  
13 warranted by the whole evidence pursuant to this Act. When  
14 such amendment is submitted, further or additional  
15 evidence may be heard by the Arbitrator or Commission when  
16 deemed necessary. Nothing in this Section contained shall  
17 be construed to be or permit a waiver of any provisions of  
18 this Act with reference to notice but notice if given shall  
19 be deemed to be a notice under the provisions of this Act  
20 if given within the time required herein.

21           (b) The Arbitrator shall make such inquiries and  
22 investigations as he or they shall deem necessary and may  
23 examine and inspect all books, papers, records, places, or  
24 premises relating to the questions in dispute and hear such  
25 proper evidence as the parties may submit.

26           The hearings before the Arbitrator shall be held in the



1 vicinity where the injury occurred after 10 days' notice of the  
2 time and place of such hearing shall have been given to each of  
3 the parties or their attorneys of record.

4 The Arbitrator may find that the disabling condition is  
5 temporary and has not yet reached a permanent condition and may  
6 order the payment of compensation up to the date of the  
7 hearing, which award shall be reviewable and enforceable in the  
8 same manner as other awards, and in no instance be a bar to a  
9 further hearing and determination of a further amount of  
10 temporary total compensation or of compensation for permanent  
11 disability, but shall be conclusive as to all other questions  
12 except the nature and extent of said disability.

13 The decision of the Arbitrator shall be filed with the  
14 Commission which Commission shall immediately send to each  
15 party or his attorney a copy of such decision, together with a  
16 notification of the time when it was filed. As of the effective  
17 date of this amendatory Act of the 94th General Assembly, all  
18 decisions of the Arbitrator shall set forth in writing findings  
19 of fact and conclusions of law, separately stated, if requested  
20 by either party. Unless a petition for review is filed by  
21 either party within 30 days after the receipt by such party of  
22 the copy of the decision and notification of time when filed,  
23 and unless such party petitioning for a review shall within 35  
24 days after the receipt by him of the copy of the decision, file  
25 with the Commission either an agreed statement of the facts  
26 appearing upon the hearing before the Arbitrator, or if such

1 party shall so elect a correct transcript of evidence of the  
2 proceedings at such hearings, then the decision shall become  
3 the decision of the Commission and in the absence of fraud  
4 shall be conclusive. The Petition for Review shall contain a  
5 statement of the petitioning party's specific exceptions to the  
6 decision of the arbitrator. The jurisdiction of the Commission  
7 to review the decision of the arbitrator shall not be limited  
8 to the exceptions stated in the Petition for Review. The  
9 Commission, or any member thereof, may grant further time not  
10 exceeding 30 days, in which to file such agreed statement or  
11 transcript of evidence. Such agreed statement of facts or  
12 correct transcript of evidence, as the case may be, shall be  
13 authenticated by the signatures of the parties or their  
14 attorneys, and in the event they do not agree as to the  
15 correctness of the transcript of evidence it shall be  
16 authenticated by the signature of the Arbitrator designated by  
17 the Commission.

18 Whether the employee is working or not, if the employee is  
19 not receiving or has not received medical, surgical, or  
20 hospital services or other services or compensation as provided  
21 in paragraph (a) of Section 8, or compensation as provided in  
22 paragraph (b) of Section 8, the employee may at any time  
23 petition for an expedited hearing by an Arbitrator on the issue  
24 of whether or not he or she is entitled to receive payment of  
25 the services or compensation. Provided the employer continues  
26 to pay compensation pursuant to paragraph (b) of Section 8, the

1 employer may at any time petition for an expedited hearing on  
2 the issue of whether or not the employee is entitled to receive  
3 medical, surgical, or hospital services or other services or  
4 compensation as provided in paragraph (a) of Section 8, or  
5 compensation as provided in paragraph (b) of Section 8. When an  
6 employer has petitioned for an expedited hearing, the employer  
7 shall continue to pay compensation as provided in paragraph (b)  
8 of Section 8 unless the arbitrator renders a decision that the  
9 employee is not entitled to the benefits that are the subject  
10 of the expedited hearing or unless the employee's treating  
11 physician has released the employee to return to work at his or  
12 her regular job with the employer or the employee actually  
13 returns to work at any other job. If the arbitrator renders a  
14 decision that the employee is not entitled to the benefits that  
15 are the subject of the expedited hearing, a petition for review  
16 filed by the employee shall receive the same priority as if the  
17 employee had filed a petition for an expedited hearing by an  
18 Arbitrator. Neither party shall be entitled to an expedited  
19 hearing when the employee has returned to work and the sole  
20 issue in dispute amounts to less than 12 weeks of unpaid  
21 compensation pursuant to paragraph (b) of Section 8.

22 Expedited hearings shall have priority over all other  
23 petitions and shall be heard by the Arbitrator and Commission  
24 with all convenient speed. Any party requesting an expedited  
25 hearing shall give notice of a request for an expedited hearing  
26 under this paragraph. A copy of the Application for Adjustment

1 of Claim shall be attached to the notice. The Commission shall  
2 adopt rules and procedures under which the final decision of  
3 the Commission under this paragraph is filed not later than 180  
4 days from the date that the Petition for Review is filed with  
5 the Commission.

6 Where 2 or more insurance carriers, private self-insureds,  
7 or a group workers' compensation pool under Article V 3/4 of  
8 the Illinois Insurance Code dispute coverage for the same  
9 injury, any such insurance carrier, private self-insured, or  
10 group workers' compensation pool may request an expedited  
11 hearing pursuant to this paragraph to determine the issue of  
12 coverage, provided coverage is the only issue in dispute and  
13 all other issues are stipulated and agreed to and further  
14 provided that all compensation benefits including medical  
15 benefits pursuant to Section 8(a) continue to be paid to or on  
16 behalf of petitioner. Any insurance carrier, private  
17 self-insured, or group workers' compensation pool that is  
18 determined to be liable for coverage for the injury in issue  
19 shall reimburse any insurance carrier, private self-insured,  
20 or group workers' compensation pool that has paid benefits to  
21 or on behalf of petitioner for the injury.

22 (b-1) If the employee is not receiving medical, surgical or  
23 hospital services as provided in paragraph (a) of Section 8 or  
24 compensation as provided in paragraph (b) of Section 8, the  
25 employee, in accordance with Commission Rules, may file a  
26 petition for an emergency hearing by an Arbitrator on the issue

1 of whether or not he is entitled to receive payment of such  
2 compensation or services as provided therein. Such petition  
3 shall have priority over all other petitions and shall be heard  
4 by the Arbitrator and Commission with all convenient speed.

5 Such petition shall contain the following information and  
6 shall be served on the employer at least 15 days before it is  
7 filed:

8 (i) the date and approximate time of accident;

9 (ii) the approximate location of the accident;

10 (iii) a description of the accident;

11 (iv) the nature of the injury incurred by the employee;

12 (v) the identity of the person, if known, to whom the  
13 accident was reported and the date on which it was  
14 reported;

15 (vi) the name and title of the person, if known,  
16 representing the employer with whom the employee conferred  
17 in any effort to obtain compensation pursuant to paragraph  
18 (b) of Section 8 of this Act or medical, surgical or  
19 hospital services pursuant to paragraph (a) of Section 8 of  
20 this Act and the date of such conference;

21 (vii) a statement that the employer has refused to pay  
22 compensation pursuant to paragraph (b) of Section 8 of this  
23 Act or for medical, surgical or hospital services pursuant  
24 to paragraph (a) of Section 8 of this Act;

25 (viii) the name and address, if known, of each witness  
26 to the accident and of each other person upon whom the

1 employee will rely to support his allegations;

2 (ix) the dates of treatment related to the accident by  
3 medical practitioners, and the names and addresses of such  
4 practitioners, including the dates of treatment related to  
5 the accident at any hospitals and the names and addresses  
6 of such hospitals, and a signed authorization permitting  
7 the employer to examine all medical records of all  
8 practitioners and hospitals named pursuant to this  
9 paragraph;

10 (x) a copy of a signed report by a medical  
11 practitioner, relating to the employee's current inability  
12 to return to work because of the injuries incurred as a  
13 result of the accident or such other documents or  
14 affidavits which show that the employee is entitled to  
15 receive compensation pursuant to paragraph (b) of Section 8  
16 of this Act or medical, surgical or hospital services  
17 pursuant to paragraph (a) of Section 8 of this Act. Such  
18 reports, documents or affidavits shall state, if possible,  
19 the history of the accident given by the employee, and  
20 describe the injury and medical diagnosis, the medical  
21 services for such injury which the employee has received  
22 and is receiving, the physical activities which the  
23 employee cannot currently perform as a result of any  
24 impairment or disability due to such injury, and the  
25 prognosis for recovery;

26 (xi) complete copies of any reports, records,

1 documents and affidavits in the possession of the employee  
2 on which the employee will rely to support his allegations,  
3 provided that the employer shall pay the reasonable cost of  
4 reproduction thereof;

5 (xii) a list of any reports, records, documents and  
6 affidavits which the employee has demanded by subpoena and  
7 on which he intends to rely to support his allegations;

8 (xiii) a certification signed by the employee or his  
9 representative that the employer has received the petition  
10 with the required information 15 days before filing.

11 Fifteen days after receipt by the employer of the petition  
12 with the required information the employee may file said  
13 petition and required information and shall serve notice of the  
14 filing upon the employer. The employer may file a motion  
15 addressed to the sufficiency of the petition. If an objection  
16 has been filed to the sufficiency of the petition, the  
17 arbitrator shall rule on the objection within 2 working days.  
18 If such an objection is filed, the time for filing the final  
19 decision of the Commission as provided in this paragraph shall  
20 be tolled until the arbitrator has determined that the petition  
21 is sufficient.

22 The employer shall, within 15 days after receipt of the  
23 notice that such petition is filed, file with the Commission  
24 and serve on the employee or his representative a written  
25 response to each claim set forth in the petition, including the  
26 legal and factual basis for each disputed allegation and the

1 following information: (i) complete copies of any reports,  
2 records, documents and affidavits in the possession of the  
3 employer on which the employer intends to rely in support of  
4 his response, (ii) a list of any reports, records, documents  
5 and affidavits which the employer has demanded by subpoena and  
6 on which the employer intends to rely in support of his  
7 response, (iii) the name and address of each witness on whom  
8 the employer will rely to support his response, and (iv) the  
9 names and addresses of any medical practitioners selected by  
10 the employer pursuant to Section 12 of this Act and the time  
11 and place of any examination scheduled to be made pursuant to  
12 such Section.

13 Any employer who does not timely file and serve a written  
14 response without good cause may not introduce any evidence to  
15 dispute any claim of the employee but may cross examine the  
16 employee or any witness brought by the employee and otherwise  
17 be heard.

18 No document or other evidence not previously identified by  
19 either party with the petition or written response, or by any  
20 other means before the hearing, may be introduced into evidence  
21 without good cause. If, at the hearing, material information is  
22 discovered which was not previously disclosed, the Arbitrator  
23 may extend the time for closing proof on the motion of a party  
24 for a reasonable period of time which may be more than 30 days.  
25 No evidence may be introduced pursuant to this paragraph as to  
26 permanent disability. No award may be entered for permanent



1 disability pursuant to this paragraph. Either party may  
2 introduce into evidence the testimony taken by deposition of  
3 any medical practitioner.

4 The Commission shall adopt rules, regulations and  
5 procedures whereby the final decision of the Commission is  
6 filed not later than 90 days from the date the petition for  
7 review is filed but in no event later than 180 days from the  
8 date the petition for an emergency hearing is filed with the  
9 Illinois Workers' Compensation Commission.

10 All service required pursuant to this paragraph (b-1) must  
11 be by personal service or by certified mail and with evidence  
12 of receipt. In addition for the purposes of this paragraph, all  
13 service on the employer must be at the premises where the  
14 accident occurred if the premises are owned or operated by the  
15 employer. Otherwise service must be at the employee's principal  
16 place of employment by the employer. If service on the employer  
17 is not possible at either of the above, then service shall be  
18 at the employer's principal place of business. After initial  
19 service in each case, service shall be made on the employer's  
20 attorney or designated representative.

21 (c) (1) At a reasonable time in advance of and in  
22 connection with the hearing under Section 19(e) or 19(h), the  
23 Commission may on its own motion order an impartial physical or  
24 mental examination of a petitioner whose mental or physical  
25 condition is in issue, when in the Commission's discretion it  
26 appears that such an examination will materially aid in the

1 just determination of the case. The examination shall be made  
2 by a member or members of a panel of physicians chosen for  
3 their special qualifications by the Illinois State Medical  
4 Society. The Commission shall establish procedures by which a  
5 physician shall be selected from such list.

6 (2) Should the Commission at any time during the hearing  
7 find that compelling considerations make it advisable to have  
8 an examination and report at that time, the commission may in  
9 its discretion so order.

10 (3) A copy of the report of examination shall be given to  
11 the Commission and to the attorneys for the parties.

12 (4) Either party or the Commission may call the examining  
13 physician or physicians to testify. Any physician so called  
14 shall be subject to cross-examination.

15 (5) The examination shall be made, and the physician or  
16 physicians, if called, shall testify, without cost to the  
17 parties. The Commission shall determine the compensation and  
18 the pay of the physician or physicians. The compensation for  
19 this service shall not exceed the usual and customary amount  
20 for such service.

21 (6) The fees and payment thereof of all attorneys and  
22 physicians for services authorized by the Commission under this  
23 Act shall, upon request of either the employer or the employee  
24 or the beneficiary affected, be subject to the review and  
25 decision of the Commission.

26 (d) If any employee shall persist in insanitary or

1 injurious practices which tend to either imperil or retard his  
2 recovery or shall refuse to submit to such medical, surgical,  
3 or hospital treatment as is reasonably essential to promote his  
4 recovery, the Commission may, in its discretion, reduce or  
5 suspend the compensation of any such injured employee. However,  
6 when an employer and employee so agree in writing, the  
7 foregoing provision shall not be construed to authorize the  
8 reduction or suspension of compensation of an employee who is  
9 relying in good faith, on treatment by prayer or spiritual  
10 means alone, in accordance with the tenets and practice of a  
11 recognized church or religious denomination, by a duly  
12 accredited practitioner thereof.

13 (e) This paragraph shall apply to all hearings before the  
14 Commission. Such hearings may be held in its office or  
15 elsewhere as the Commission may deem advisable. The taking of  
16 testimony on such hearings may be had before any member of the  
17 Commission. If a petition for review and agreed statement of  
18 facts or transcript of evidence is filed, as provided herein,  
19 the Commission shall promptly review the decision of the  
20 Arbitrator and all questions of law or fact which appear from  
21 the statement of facts or transcript of evidence.

22 In all cases in which the hearing before the arbitrator is  
23 held after December 18, 1989, no additional evidence shall be  
24 introduced by the parties before the Commission on review of  
25 the decision of the Arbitrator. In reviewing decisions of an  
26 arbitrator the Commission shall award such temporary

1 compensation, permanent compensation and other payments as are  
2 due under this Act. The Commission shall file in its office its  
3 decision thereon, and shall immediately send to each party or  
4 his attorney a copy of such decision and a notification of the  
5 time when it was filed. Decisions shall be filed within 60 days  
6 after the Statement of Exceptions and Supporting Brief and  
7 Response thereto are required to be filed or oral argument  
8 whichever is later.

9 In the event either party requests oral argument, such  
10 argument shall be had before a panel of 3 members of the  
11 Commission (or before all available members pursuant to the  
12 determination of 7 members of the Commission that such argument  
13 be held before all available members of the Commission)  
14 pursuant to the rules and regulations of the Commission. A  
15 panel of 3 members, which shall be comprised of not more than  
16 one representative citizen of the employing class and not more  
17 than one representative citizen of the employee class, shall  
18 hear the argument; provided that if all the issues in dispute  
19 are solely the nature and extent of the permanent partial  
20 disability, if any, a majority of the panel may deny the  
21 request for such argument and such argument shall not be held;  
22 and provided further that 7 members of the Commission may  
23 determine that the argument be held before all available  
24 members of the Commission. A decision of the Commission shall  
25 be approved by a majority of Commissioners present at such  
26 hearing if any; provided, if no such hearing is held, a

1 decision of the Commission shall be approved by a majority of a  
2 panel of 3 members of the Commission as described in this  
3 Section. The Commission shall give 10 days' notice to the  
4 parties or their attorneys of the time and place of such taking  
5 of testimony and of such argument.

6 In any case the Commission in its decision may find  
7 specially upon any question or questions of law or fact which  
8 shall be submitted in writing by either party whether ultimate  
9 or otherwise; provided that on issues other than nature and  
10 extent of the disability, if any, the Commission in its  
11 decision shall find specially upon any question or questions of  
12 law or fact, whether ultimate or otherwise, which are submitted  
13 in writing by either party; provided further that not more than  
14 5 such questions may be submitted by either party. Any party  
15 may, within 20 days after receipt of notice of the Commission's  
16 decision, or within such further time, not exceeding 30 days,  
17 as the Commission may grant, file with the Commission either an  
18 agreed statement of the facts appearing upon the hearing, or,  
19 if such party shall so elect, a correct transcript of evidence  
20 of the additional proceedings presented before the Commission,  
21 in which report the party may embody a correct statement of  
22 such other proceedings in the case as such party may desire to  
23 have reviewed, such statement of facts or transcript of  
24 evidence to be authenticated by the signature of the parties or  
25 their attorneys, and in the event that they do not agree, then  
26 the authentication of such transcript of evidence shall be by

1 the signature of any member of the Commission.

2 If a reporter does not for any reason furnish a transcript  
3 of the proceedings before the Arbitrator in any case for use on  
4 a hearing for review before the Commission, within the  
5 limitations of time as fixed in this Section, the Commission  
6 may, in its discretion, order a trial de novo before the  
7 Commission in such case upon application of either party. The  
8 applications for adjustment of claim and other documents in the  
9 nature of pleadings filed by either party, together with the  
10 decisions of the Arbitrator and of the Commission and the  
11 statement of facts or transcript of evidence hereinbefore  
12 provided for in paragraphs (b) and (c) shall be the record of  
13 the proceedings of the Commission, and shall be subject to  
14 review as hereinafter provided.

15 At the request of either party or on its own motion, the  
16 Commission shall set forth in writing the reasons for the  
17 decision, including findings of fact and conclusions of law  
18 separately stated. The Commission shall by rule adopt a format  
19 for written decisions for the Commission and arbitrators. The  
20 written decisions shall be concise and shall succinctly state  
21 the facts and reasons for the decision. The Commission may  
22 adopt in whole or in part, the decision of the arbitrator as  
23 the decision of the Commission. When the Commission does so  
24 adopt the decision of the arbitrator, it shall do so by order.  
25 Whenever the Commission adopts part of the arbitrator's  
26 decision, but not all, it shall include in the order the

1 reasons for not adopting all of the arbitrator's decision. When  
2 a majority of a panel, after deliberation, has arrived at its  
3 decision, the decision shall be filed as provided in this  
4 Section without unnecessary delay, and without regard to the  
5 fact that a member of the panel has expressed an intention to  
6 dissent. Any member of the panel may file a dissent. Any  
7 dissent shall be filed no later than 10 days after the decision  
8 of the majority has been filed.

9 Decisions rendered by the Commission and dissents, if any,  
10 shall be published together by the Commission. The conclusions  
11 of law set out in such decisions shall be regarded as  
12 precedents by arbitrators for the purpose of achieving a more  
13 uniform administration of this Act.

14 (f) The decision of the Commission acting within its  
15 powers, according to the provisions of paragraph (e) of this  
16 Section shall, in the absence of fraud, be conclusive unless  
17 reviewed as in this paragraph hereinafter provided. However,  
18 the Arbitrator or the Commission may on his or its own motion,  
19 or on the motion of either party, correct any clerical error or  
20 errors in computation within 15 days after the date of receipt  
21 of any award by such Arbitrator or any decision on review of  
22 the Commission and shall have the power to recall the original  
23 award on arbitration or decision on review, and issue in lieu  
24 thereof such corrected award or decision. Where such correction  
25 is made the time for review herein specified shall begin to run  
26 from the date of the receipt of the corrected award or

1 decision.

2 (1) Except in cases of claims against the State of  
3 Illinois, in which case the decision of the Commission  
4 shall not be subject to judicial review, the Circuit Court  
5 of the county where any of the parties defendant may be  
6 found, or if none of the parties defendant can be found in  
7 this State then the Circuit Court of the county where the  
8 accident occurred, shall by summons to the Commission have  
9 power to review all questions of law and fact presented by  
10 such record.

11 A proceeding for review shall be commenced within 20  
12 days of the receipt of notice of the decision of the  
13 Commission. The summons shall be issued by the clerk of  
14 such court upon written request returnable on a designated  
15 return day, not less than 10 or more than 60 days from the  
16 date of issuance thereof, and the written request shall  
17 contain the last known address of other parties in interest  
18 and their attorneys of record who are to be served by  
19 summons. Service upon any member of the Commission or the  
20 Secretary or the Assistant Secretary thereof shall be  
21 service upon the Commission, and service upon other parties  
22 in interest and their attorneys of record shall be by  
23 summons, and such service shall be made upon the Commission  
24 and other parties in interest by mailing notices of the  
25 commencement of the proceedings and the return day of the  
26 summons to the office of the Commission and to the last



1 known place of residence of other parties in interest or  
2 their attorney or attorneys of record. The clerk of the  
3 court issuing the summons shall on the day of issue mail  
4 notice of the commencement of the proceedings which shall  
5 be done by mailing a copy of the summons to the office of  
6 the Commission, and a copy of the summons to the other  
7 parties in interest or their attorney or attorneys of  
8 record and the clerk of the court shall make certificate  
9 that he has so sent said notices in pursuance of this  
10 Section, which shall be evidence of service on the  
11 Commission and other parties in interest.

12 The Commission shall not be required to certify the  
13 record of their proceedings to the Circuit Court, unless  
14 the party commencing the proceedings for review in the  
15 Circuit Court as above provided, shall pay to the  
16 Commission the sum of 80¢ per page of testimony taken  
17 before the Commission, and 35¢ per page of all other  
18 matters contained in such record, except as otherwise  
19 provided by Section 20 of this Act. Payment for photostatic  
20 copies of exhibit shall be extra. It shall be the duty of  
21 the Commission upon such payment, or failure to pay as  
22 permitted under Section 20 of this Act, to prepare a true  
23 and correct typewritten copy of such testimony and a true  
24 and correct copy of all other matters contained in such  
25 record and certified to by the Secretary or Assistant  
26 Secretary thereof.

1           In its decision on review the Commission shall  
2           determine in each particular case the amount of the  
3           probable cost of the record to be filed as a part of the  
4           summons in that case and no request for a summons may be  
5           filed and no summons shall issue unless the party seeking  
6           to review the decision of the Commission shall exhibit to  
7           the clerk of the Circuit Court proof of payment by filing a  
8           receipt showing payment or an affidavit of the attorney  
9           setting forth that payment has been made of the sums so  
10          determined to the Secretary or Assistant Secretary of the  
11          Commission, except as otherwise provided by Section 20 of  
12          this Act.

13           (2) No such summons shall issue unless the one against  
14          whom the Commission shall have rendered an award for the  
15          payment of money shall upon the filing of his written  
16          request for such summons file with the clerk of the court a  
17          bond conditioned that if he shall not successfully  
18          prosecute the review, he will pay the award and the costs  
19          of the proceedings in the courts. The amount of the bond  
20          shall be fixed by any member of the Commission and the  
21          surety or sureties of the bond shall be approved by the  
22          clerk of the court. The acceptance of the bond by the clerk  
23          of the court shall constitute evidence of his approval of  
24          the bond.

25           Every county, city, town, township, incorporated  
26          village, school district, body politic or municipal

1 corporation against whom the Commission shall have  
2 rendered an award for the payment of money shall not be  
3 required to file a bond to secure the payment of the award  
4 and the costs of the proceedings in the court to authorize  
5 the court to issue such summons.

6 The court may confirm or set aside the decision of the  
7 Commission. If the decision is set aside and the facts  
8 found in the proceedings before the Commission are  
9 sufficient, the court may enter such decision as is  
10 justified by law, or may remand the cause to the Commission  
11 for further proceedings and may state the questions  
12 requiring further hearing, and give such other  
13 instructions as may be proper. Appeals shall be taken to  
14 the Appellate Court in accordance with Supreme Court Rules  
15 22(g) and 303. Appeals shall be taken from the Appellate  
16 Court to the Supreme Court in accordance with Supreme Court  
17 Rule 315.

18 It shall be the duty of the clerk of any court  
19 rendering a decision affecting or affirming an award of the  
20 Commission to promptly furnish the Commission with a copy  
21 of such decision, without charge.

22 The decision of a majority of the members of the panel  
23 of the Commission, shall be considered the decision of the  
24 Commission.

25 (g) Except in the case of a claim against the State of  
26 Illinois, either party may present a certified copy of the

1 award of the Arbitrator, or a certified copy of the decision of  
2 the Commission when the same has become final, when no  
3 proceedings for review are pending, providing for the payment  
4 of compensation according to this Act, to the Circuit Court of  
5 the county in which such accident occurred or either of the  
6 parties are residents, whereupon the court shall enter a  
7 judgment in accordance therewith. In a case where the employer  
8 refuses to pay compensation according to such final award or  
9 such final decision upon which such judgment is entered the  
10 court shall in entering judgment thereon, tax as costs against  
11 him the reasonable costs and attorney fees in the arbitration  
12 proceedings and in the court entering the judgment for the  
13 person in whose favor the judgment is entered, which judgment  
14 and costs taxed as therein provided shall, until and unless set  
15 aside, have the same effect as though duly entered in an action  
16 duly tried and determined by the court, and shall with like  
17 effect, be entered and docketed. The Circuit Court shall have  
18 power at any time upon application to make any such judgment  
19 conform to any modification required by any subsequent decision  
20 of the Supreme Court upon appeal, or as the result of any  
21 subsequent proceedings for review, as provided in this Act.

22 Judgment shall not be entered until 15 days' notice of the  
23 time and place of the application for the entry of judgment  
24 shall be served upon the employer by filing such notice with  
25 the Commission, which Commission shall, in case it has on file  
26 the address of the employer or the name and address of its

1 agent upon whom notices may be served, immediately send a copy  
2 of the notice to the employer or such designated agent.

3 (h) An agreement or award under this Act providing for  
4 compensation in installments, may at any time within 18 months  
5 after such agreement or award be reviewed by the Commission at  
6 the request of either the employer or the employee, on the  
7 ground that the disability of the employee has subsequently  
8 recurred, increased, diminished or ended.

9 However, as to accidents occurring subsequent to July 1,  
10 1955, which are covered by any agreement or award under this  
11 Act providing for compensation in installments made as a result  
12 of such accident, such agreement or award may at any time  
13 within 30 months, or 60 months in the case of an award under  
14 Section 8(d)1, after such agreement or award be reviewed by the  
15 Commission at the request of either the employer or the  
16 employee on the ground that the disability of the employee has  
17 subsequently recurred, increased, diminished or ended.

18 On such review, compensation payments may be  
19 re-established, increased, diminished or ended. The Commission  
20 shall give 15 days' notice to the parties of the hearing for  
21 review. Any employee, upon any petition for such review being  
22 filed by the employer, shall be entitled to one day's notice  
23 for each 100 miles necessary to be traveled by him in attending  
24 the hearing of the Commission upon the petition, and 3 days in  
25 addition thereto. Such employee shall, at the discretion of the  
26 Commission, also be entitled to 5 cents per mile necessarily

1 traveled by him within the State of Illinois in attending such  
2 hearing, not to exceed a distance of 300 miles, to be taxed by  
3 the Commission as costs and deposited with the petition of the  
4 employer.

5 When compensation which is payable in accordance with an  
6 award or settlement contract approved by the Commission, is  
7 ordered paid in a lump sum by the Commission, no review shall  
8 be had as in this paragraph mentioned.

9 (i) Each party, upon taking any proceedings or steps  
10 whatsoever before any Arbitrator, Commission or court, shall  
11 file with the Commission his address, or the name and address  
12 of any agent upon whom all notices to be given to such party  
13 shall be served, either personally or by registered mail,  
14 addressed to such party or agent at the last address so filed  
15 with the Commission. In the event such party has not filed his  
16 address, or the name and address of an agent as above provided,  
17 service of any notice may be had by filing such notice with the  
18 Commission.

19 (j) Whenever in any proceeding testimony has been taken or  
20 a final decision has been rendered and after the taking of such  
21 testimony or after such decision has become final, the injured  
22 employee dies, then in any subsequent proceedings brought by  
23 the personal representative or beneficiaries of the deceased  
24 employee, such testimony in the former proceeding may be  
25 introduced with the same force and effect as though the witness  
26 having so testified were present in person in such subsequent

1 proceedings and such final decision, if any, shall be taken as  
2 final adjudication of any of the issues which are the same in  
3 both proceedings.

4 (k) In case where there has been any unreasonable or  
5 vexatious delay of payment or intentional underpayment of  
6 compensation, or proceedings have been instituted or carried on  
7 by the one liable to pay the compensation, which do not present  
8 a real controversy, but are merely frivolous or for delay, then  
9 the Commission may award compensation additional to that  
10 otherwise payable under this Act equal to 50% of the amount  
11 payable at the time of such award. Failure to pay compensation  
12 in accordance with the provisions of Section 8, paragraph (b)  
13 of this Act, shall be considered unreasonable delay.

14 When determining whether this subsection (k) shall apply,  
15 the Commission shall consider whether an Arbitrator has  
16 determined that the claim is not compensable or whether the  
17 employer has made payments under Section 8(j).

18 (l) If the employee has made written demand for payment of  
19 benefits under Section 8(a) or Section 8(b), the employer shall  
20 have 14 days after receipt of the demand to set forth in  
21 writing the reason for the delay. In the case of demand for  
22 payment of medical benefits under Section 8(a), the time for  
23 the employer to respond shall not commence until the expiration  
24 of the allotted 60 days specified under Section 8.2(d). In case  
25 the employer or his or her insurance carrier shall without good  
26 and just cause fail, neglect, refuse, or unreasonably delay the

1 payment of benefits under Section 8(a) or Section 8(b), the  
2 Arbitrator or the Commission shall allow to the employee  
3 additional compensation in the sum of \$100 ~~\$30~~ per day for each  
4 day that the benefits under Section 8(a) or Section 8(b) have  
5 been so withheld or refused, not to exceed \$33,000 ~~\$10,000~~. A  
6 delay in payment of 14 days or more shall create a rebuttable  
7 presumption of unreasonable delay.

8 (m) If the commission finds that an accidental injury was  
9 directly and proximately caused by the employer's wilful  
10 violation of a health and safety standard under the Health and  
11 Safety Act in force at the time of the accident, the arbitrator  
12 or the Commission shall allow to the injured employee or his  
13 dependents, as the case may be, additional compensation equal  
14 to 25% of the amount which otherwise would be payable under the  
15 provisions of this Act exclusive of this paragraph. The  
16 additional compensation herein provided shall be allowed by an  
17 appropriate increase in the applicable weekly compensation  
18 rate.

19 (n) After June 30, 1984, decisions of the Illinois Workers'  
20 Compensation Commission reviewing an award of an arbitrator of  
21 the Commission shall draw interest at a rate equal to the yield  
22 on indebtedness issued by the United States Government with a  
23 26-week maturity next previously auctioned on the day on which  
24 the decision is filed. Said rate of interest shall be set forth  
25 in the Arbitrator's Decision. Interest shall be drawn from the  
26 date of the arbitrator's award on all accrued compensation due



1 the employee through the day prior to the date of payments.  
2 However, when an employee appeals an award of an Arbitrator or  
3 the Commission, and the appeal results in no change or a  
4 decrease in the award, interest shall not further accrue from  
5 the date of such appeal.

6 The employer or his insurance carrier may tender the  
7 payments due under the award to stop the further accrual of  
8 interest on such award notwithstanding the prosecution by  
9 either party of review, certiorari, appeal to the Supreme Court  
10 or other steps to reverse, vacate or modify the award.

11 (o) By the 15th day of each month each insurer providing  
12 coverage for losses under this Act shall notify each insured  
13 employer of any compensable claim incurred during the preceding  
14 month and the amounts paid or reserved on the claim including a  
15 summary of the claim and a brief statement of the reasons for  
16 compensability. A cumulative report of all claims incurred  
17 during a calendar year or continued from the previous year  
18 shall be furnished to the insured employer by the insurer  
19 within 30 days after the end of that calendar year.

20 The insured employer may challenge, in proceeding before  
21 the Commission, payments made by the insurer without  
22 arbitration and payments made after a case is determined to be  
23 noncompensable. If the Commission finds that the case was not  
24 compensable, the insurer shall purge its records as to that  
25 employer of any loss or expense associated with the claim,  
26 reimburse the employer for attorneys' fees arising from the

1 challenge and for any payment required of the employer to the  
2 Rate Adjustment Fund or the Second Injury Fund, and may not  
3 reflect the loss or expense for rate making purposes. The  
4 employee shall not be required to refund the challenged  
5 payment. The decision of the Commission may be reviewed in the  
6 same manner as in arbitrated cases. No challenge may be  
7 initiated under this paragraph more than 3 years after the  
8 payment is made. An employer may waive the right of challenge  
9 under this paragraph on a case by case basis.

10 (p) After filing an application for adjustment of claim but  
11 prior to the hearing on arbitration the parties may voluntarily  
12 agree to submit such application for adjustment of claim for  
13 decision by an arbitrator under this subsection (p) where such  
14 application for adjustment of claim raises only a dispute over  
15 temporary total disability, permanent partial disability or  
16 medical expenses. Such agreement shall be in writing in such  
17 form as provided by the Commission. Applications for adjustment  
18 of claim submitted for decision by an arbitrator under this  
19 subsection (p) shall proceed according to rule as established  
20 by the Commission. The Commission shall promulgate rules  
21 including, but not limited to, rules to ensure that the parties  
22 are adequately informed of their rights under this subsection  
23 (p) and of the voluntary nature of proceedings under this  
24 subsection (p). The findings of fact made by an arbitrator  
25 acting within his or her powers under this subsection (p) in  
26 the absence of fraud shall be conclusive. However, the

1 arbitrator may on his own motion, or the motion of either  
2 party, correct any clerical errors or errors in computation  
3 within 15 days after the date of receipt of such award of the  
4 arbitrator and shall have the power to recall the original  
5 award on arbitration, and issue in lieu thereof such corrected  
6 award. The decision of the arbitrator under this subsection (p)  
7 shall be considered the decision of the Commission and  
8 proceedings for review of questions of law arising from the  
9 decision may be commenced by either party pursuant to  
10 subsection (f) of Section 19. The Advisory Board established  
11 under Section 13.1 shall compile a list of certified Commission  
12 arbitrators, each of whom shall be approved by at least 7  
13 members of the Advisory Board. The chairman shall select 5  
14 persons from such list to serve as arbitrators under this  
15 subsection (p). By agreement, the parties shall select one  
16 arbitrator from among the 5 persons selected by the chairman  
17 except that if the parties do not agree on an arbitrator from  
18 among the 5 persons, the parties may, by agreement, select an  
19 arbitrator of the American Arbitration Association, whose fee  
20 shall be paid by the State in accordance with rules promulgated  
21 by the Commission. Arbitration under this subsection (p) shall  
22 be voluntary.

23 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

24 Section 99. Effective date. This Act takes effect January  
25 1, 2012.